

A BILL FOR AN ORDINANCE

RELATING TO BUILDING INSPECTIONS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to require the periodic inspection of certain walls and appurtenances of certain buildings.

SECTION 2. Chapter 16, Revised Ordinances of Honolulu 1990 ("Building Code"), is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article __. Periodic Inspection of Exterior Walls and Appurtenances of Buildings

Sec. 16-__.1 Definitions.

"Affected building" means any building three or more stories in height.

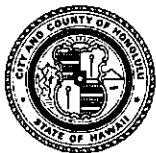
"Appurtenance" means an accessory to a building that includes, but is not limited to, exterior fixtures, flagpoles, signs, parapets, copings, guard rails, window frames (including hardware and lights), window guards, window air conditioners, flower boxes, and similar items.

"Professional" means a State of Hawaii licensed professional engineer experienced in the practice of structural engineering or a State of Hawaii licensed architect knowledgeable in the design, construction, and inspection of building exteriors.

"Safe" means a condition of an exterior building wall or any appurtenance thereto that is neither unsafe nor safe with a repair and maintenance program.

"Safe with a repair and maintenance program" means a condition of a building's exterior wall or any appurtenance thereto or any part thereof that the professional does not consider unsafe at the time of inspection, but requires repairs or maintenance within a time period designated by the professional in order to prevent its deterioration into an unsafe condition.

"Unsafe" means a condition of a building's exterior wall or any appurtenance thereto or part thereof that is dangerous to persons or property and requires prompt remedial action.



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Sec. 16-___.2 Inspections required.

- (a) The owner of each affected building shall be responsible for retaining a professional to conduct periodic inspections of exterior walls and any appurtenances thereto, except for those parts of any exterior wall which are less than 12 inches from the exterior wall of an adjacent building, and to prepare and file a report on such inspection as required by Section 16-___.4.
- (b) For affected buildings, the first inspection required by this Section shall be conducted as shown in the following schedule:

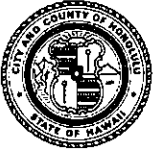
Construction Date	Inspection Report Due Date:
Prior to and including 1950	December 31, 2018
1951-1970	December 31, 2019
1971-1990	December 31, 2020
1991-2007	December 31, 2021

If the date of construction cannot be determined by the owner, the first inspection must be performed by December 31, 2018. For all other buildings with a construction date after 2007, the first inspection shall be conducted, and required report shall be filed, within 15 years after the first certificate of occupancy or certificate of completion was issued for the building.

- (c) Following the initial inspection, an affected building shall be re-inspected, and the required report shall be filed, on a five-year cycle based on the original schedule.
- (d) If all exterior walls of an affected building have been substantially restored during the five years immediately preceding the date of any required inspection, the owner may apply to the department for a waiver of the required inspection. The owner shall submit with the waiver application any information that the department determines is necessary to enable it to evaluate the request. The department may grant the waiver if it determines that the recent exterior wall restoration obviates the need for an inspection until the next inspection cycle.

Sec. 16-___.3 Inspection procedures.

- (a) Before inspecting an affected building, the retained professional must review previous reports, inspections, and evidence of repairs made in the past five year period, including confirmation that all areas previously determined to require remediation in less than five years as noted in any previous report have been addressed.

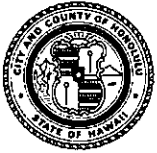


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- (b) The inspection must be conducted by or under the supervision of the professional, and performed in accordance with procedures based on ASTM E2270, "Standard Practice for Periodic Inspection of Building Facades for Unsafe Conditions." The professional shall determine the extent of the inspection required, based upon the known history of the building, the nature of the materials used, and the conditions observed. The professional shall determine methods employed in the inspection.
- (c) The methods used to inspect a building must include a physical, hands-on inspection of the building. The professional may use additional methods of inspection as deemed appropriate, except that a physical inspection from a scaffold or other observation platform is required for a representative sample of the exterior wall. The professional shall determine what constitutes a representative sample.
- (d) The professional shall employ the appropriate professional standard of care to detect distressed conditions such as delaminating, separating, spalling, corrosion, splitting or fracturing of material or components as well as movement or displacement indicative of unsound facade materials or loss of structural support. If a distressed condition is identified, the professional shall order any other inspections and tests that may be required to determine the significance and probable cause of the observed distress.
- (e) During the course of the inspection, photographs must be taken or drawings made to properly document the location of all conditions observed that are either unsafe or safe with a repair and maintenance program.
- (f) Upon discovery of any unsafe condition the professional shall immediately notify the owner of the building by electronic mail, and shall, within 12 hours of discovery, notify the department in writing and in an electronic format determined by the department.

Sec. 16-___.4 Report requirements.

- (a) The professional shall submit to the owner of the building a written report as to the result of each inspection, certifying that the inspection was performed and completed in accordance with this article, and detailing all conditions not classified as safe. The professional shall also submit a summary of the written report to the department in a form determined by the department. The department may by rule impose a processing fee to cover the cost of report review and evaluation that must be paid upon submission of the summary of the written report. If the report identifies an unsafe condition, then the professional,



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within 24 hours of completion of the report, must file the full report with the department in writing and in an electronic format determined by the department. The owner or its agent shall retain all written reports submitted pursuant to this section and keep them readily available for inspection by the department.

- (b) The report must include, on its front page, the name and license number of the professional and be signed, sealed and dated by the professional in accordance with the professional licensing and registration laws of the State of Hawaii, and must include:
- (1) The building's address and the location from the nearest intersection.
 - (2) The name, mailing address, and telephone number of the owner of the building and of the owner's agent or person in charge, possession or control of the building, if any.
 - (3) A description of the building, including number of stories, height, plan dimensions, usage, age and type of exterior wall construction, and system of water management.
 - (4) A brief history of any settlements, repairs, and revisions to exterior enclosures, if available.
 - (5) The date of the start and completion of the inspection, a detailed description of the procedures used in making the inspection, and the extent and location of all physical inspections performed.
 - (6) A report of all conditions including but not limited to significant deterioration and movement observed as well as a statement concerning the apparent water-tightness of the exterior surfaces, and the deleterious effects of exterior appurtenances, including exterior fixtures, flagpoles, signs, parapets, copings, guard rails, window frames (including hardware and lights), window guards, window air conditioners, flower boxes, and similar items. The report will classify each such condition as safe, unsafe, or safe with a repair and maintenance program.
 - (7) The probable causes of the reported conditions, to the extent they can be determined.
 - (8) The status of the exterior maintenance.
 - (9) For any conditions listed in the previously filed report, if applicable, as unsafe or as safe with a maintenance and repair program, a statement as



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to whether such conditions have been repaired or maintained as recommended in that report.

- (10) Recommendations for repairs or maintenance, if appropriate, including the recommended time frame for the repairs or maintenance to be performed.
 - (11) The classification of the building according to the following scheme:
 - (A) "Unsafe," if there is at least one unsafe condition.
 - (B) "Safe with a repair and maintenance program," if there is a condition that is "Safe with repair and maintenance program" and there are no unsafe conditions.
 - (C) "Safe," in all cases other than (A) or (B).
 - (12) Photographs or drawings documenting the locations of any conditions that are either unsafe or safe with a repair and maintenance program.
 - (13) A statement by the professional indicating which repairs or maintenance require the obtaining of work permits prior to their commencement.
 - (14) A statement signed by the owner or agent of the building, acknowledging receipt of a copy of the report and acknowledging all required repairs or maintenance, if any, and the recommended time frame for performing such repairs or maintenance.
 - (15) The professional's certification that the physical inspection was performed in accordance with procedures based on ASTM E2270, with applicable rules and regulations, and within the appropriate professional standard of care.
 - (16) The professional's seal and signature.
 - (17) Such other matters as the department may by rule require.
- (c) The professional may submit an amended report within 30 days of the initial submission. The amended report shall clearly indicate any changes from the initial report and all reasons for such changes.



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Sec. 16-___.5 Unsafe conditions.

- (a) Within 24 hours of being notified of an unsafe condition by a professional, the owner of a building shall take any actions necessary to protect public safety, including but not limited to erecting temporary secure safety railings or barriers, protective sidewalk walk-throughs, fences, and/or safety netting. Such actions shall be considered as an effort to remedy an emergency situation and appropriate permit applications shall be submitted within the next three days to the department.
- (b) Within 10 days of the receipt or filing of a report identifying an unsafe condition, the owner of a building shall commence work to correct the condition, and work shall continue without interruption until the unsafe condition has been corrected, unless there has been an unforeseen delay including but not limited to inclement weather or a labor strike. Within two weeks after the unsafe condition has been corrected, the professional must re-inspect the building and file with the department a detailed amended report stating the condition of the building

Sec. 16-___.6 Conditions that are safe with a repair and maintenance program.

The owner of the building is responsible for ensuring that the conditions described in the report as "Safe with a repair and maintenance program" are repaired and the actions identified by the professional are completed within the time frame designated by the professional or by such time as is necessary to prevent a condition from becoming an unsafe condition, whichever is earlier.

Sec. 16-___.7 Extensions.

- (a) The department may grant an extension of time of up to 90 days to begin the repairs required to remove an unsafe condition or to repair a safe with a repair and maintenance program condition, after receipt and review of an initial extension application submitted by the professional which includes:
 - (1) Proof that the premises have been made safe by means of a temporary secure safety railing or barrier, walk-through, fence, or other appropriate measures.
 - (2) A copy of the contract indicating the scope of work necessary to remedy the unsafe condition(s).



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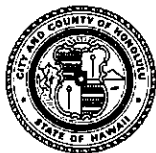
- (3) The professional's estimate of the length of time required for repairs, and a notarized affidavit by the owner of the building or its agent that work will be completed within such time.
- (b) A further extension of time will be considered by the department only upon receipt and review of a further extension application which details that one of the following is met:
 - (1) The work has been substantially completed, but there has been an unforeseen delay in final completion, including but not limited to weather or a labor strike.
 - (2) Unforeseen circumstances, including but not limited to fire or a building collapse.
 - (3) The nature of a hazard requires more than 90 days to remove, including but not limited to when a new wall is required to be built.

Sec. 16-___.8 Appeals.

- (a) The owner of the building may appeal the findings set forth in the professional's initial report or amended report to the board of appeals. Such appeal must be filed within thirty days of the receipt or filing of the report, and must include a second professional's report. The filing and pendency of such an appeal will stay the requirement for making repairs as set forth in Section 16-___.5(b), but not the requirement for taking actions necessary to protect public safety as set forth in Section 16-___.5(a).
- (b) Upon consideration of any such appeal, the board shall issue a recommendation to the building official either to grant the appeal, deny the appeal, or grant the appeal with such proposed modifications to the professional's findings as the board deems consistent with the intent of this article. The building official thereafter shall make the final determination on the appeal.

Sec. 16-___.9 Rules.

In accordance with HRS Chapter 91, the building official may adopt rules having the force and effect of law for the implementation, administration, and enforcement of this article."



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 17 (2017)

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SECTION 3. Section 16-1.1, Revised Ordinances of Honolulu ("International Building Code"), is amended by amending subdivision (13) to read as follows:

"(13) Amending Section 112. Section 112 is amended to read:

SECTION 112 – BOARD OF APPEALS

112.1 Creation. There shall be and is hereby created a board of appeals consisting of nine members who shall be qualified by experience and training to pass upon matters pertaining to building construction and fire safety and who shall be appointed by the mayor with the approval of the council. Four members shall be currently licensed as engineers or architects with the State of Hawaii board of registration of professional engineers, architects, land surveyors, and landscape architects. One member shall be qualified by experience and training to pass on matters pertaining to electrical work. One member shall be qualified by experience and training to pass on matters pertaining to plumbing work. Two members shall be qualified by experience and training to pass on matters pertaining to fire safety. One member shall be a general contractor licensed under HRS Chapter 444. The members of the board shall serve for terms of five years and until their successors have been appointed and qualified. Any vacancy occurring other than by expiration of a term of office shall be filled for the remainder of such unexpired term in the same manner as for an original appointment. The board shall select a chair and vice-chair annually.

112.2 Board Action. All board action requires an affirmative vote of five or more board members.

112.3 Power and Duties. The board shall:

112.3.1 Hear and determine appeals from the decisions of the building official in the administration of the Building Code, Electrical Code, Plumbing Code, Housing Code, Building Energy Efficiency Standards, and ROH Chapter 18, including, but not limited to, matters involving any approval or denial, the use of new or alternate materials, types of construction, equipment, devices or appliances, administrative enforcement, and the issuance, suspension or revocation of permits issued under ROH Chapter 18.

In the case of any denial of the use of new or alternative materials, types of construction, equipment, devices or appliances, an appeal may be sustained if the record shows that: (1) the new or alternate materials, types of construction, equipment, devices or appliances meet the required



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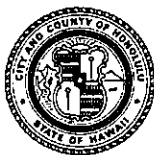
standards established by the codes being appealed from; (2) permitting the use thereof will not jeopardize life, limb or property, and; (3) the use will not be contrary to the intent and purpose of the code being appealed from. The appellant shall pay all expenses necessary for tests that may be ordered by the board.

In all cases not involving the use of new or alternate materials, an appeal shall only be sustained if the record shows that the decision of the building official is based on an erroneous finding of material fact, arbitrary or capricious decision making, or a manifest abuse of discretion. The board may reverse, affirm or modify, in whole or in part, the decision appealed from.

112.3.2 [The board of appeals shall hear] Hear and determine appeals from the decisions of the fire official in the administration of the Fire Code, including the suspension or revocation of permits issued pursuant to the Fire Code, and any denial of the use of new or alternate materials, types of construction, equipment, devices or appliances. The standard of review for the use of new or alternate materials, types of construction, equipment, devices or appliance shall be the same as for Section 112.3.1.

112.3.3 [The board of appeals shall hear] Hear and determine petitions for varying the application of the Building Code, Electrical Code, Plumbing Code, Fire Code, or Building Energy Efficiency Standards. A variance may be granted if the board finds: (1) that the strict application, operation or enforcement of the code provision or provisions being appealed from would result in practical difficulty or unnecessary hardship to the applicant; (2) that safety to life, limb, and property will not be jeopardized, and; (3) that the granting of a variance would not be injurious to the adjoining lots and the building thereon, would not create additional fire hazards and would not be contrary to the purposes of the code and public interest. In making its determination, the board shall take into account the character, use, and type of occupancy and construction of adjoining buildings, buildings on adjoining lots and the building involved.

112.3.4 [The board of appeals shall hear] Hear and determine appeals from the decisions of the building official in the administration enforcement of ROH Chapter 29, Article 4. An appeal shall only be sustained if the record shows that the decision of the building official is based on an erroneous finding of material fact, arbitrary or capricious decision making, or a manifest abuse of discretion. The board may reverse, affirm or modify, in whole or in part, the decision appealed from.



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112.3.5 [The board of appeals shall hear] Hear and determine appeals concerning the summary removal of unlawful signs pursuant to ROH Chapter 29, Article 14. Such appeals shall be limited to a determination of whether a sign was properly removed pursuant to the provisions of that article. An appeal shall only be sustained if the record shows that the decision of the building official is based on an erroneous finding of material fact, arbitrary or capricious decision making, or a manifest abuse of discretion. The board may reverse, affirm or modify, in whole or in part, the decision appealed from.

112.3.6 Hear appeals concerning the findings set forth in a professional report on the condition of the exterior walls and appurtenances of a building resulting from a mandated inspection performed in accordance with ROH Chapter 16, Article _____. Upon completion of the appeals process, the board shall issue a recommendation to the building official, who shall make the final determination of the appeal.

112.3.7 Receive appeals within certain time periods. Appeals from the decisions of the building official to issue, suspend, or revoke permits shall be in writing and filed with the board within ten (10) working days of the permittee's receipt of the notice of issuance, suspension, or revocation. In all other cases, appeals from the decisions of the building official and fire official shall be in writing and filed within thirty (30) calendar days of the decision appealed from.

112.4 Compensation. Each member of the board shall be compensated at the rate of \$20 per day for each day's actual attendance at a meeting, but such compensation shall not exceed, in the aggregate, \$60 in any one month.

112.5 Procedure. The proceedings of the board shall be subject to the provisions of HRS Chapter 91. The board shall adopt reasonable rules and regulations for conducting its meetings, hearings, and investigations in conformity therewith and may impose reasonable fees to cover the costs of such proceedings.

112.6 Fees. The filing fee for a petition for appeal from a decision of the Authority Having Jurisdiction in the administration the Building Code, Electrical Code, Fire Code, Plumbing Code, Housing Code, ROH Chapter 29, Article 4, ROH Chapter 18 and the Building Energy Efficiency Standard or an application for varying the application of the Building Code, Electrical Code, Plumbing Code, Fire Code, or Building Energy Efficiency Standards, is \$200. No petition for appeal may be filed without prior payment of the fee."



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 17 (2017)

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SECTION 4. This ordinance takes effect on January 1, 2018.

INTRODUCED BY:

DATE OF INTRODUCTION:

FEB 15 2017

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu